

Message Text

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ORIGIN EA-14

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03

NSAE-00 NSC-10 PA-04 RSC-01 PRS-01 SPC-03 SS-20

USIA-15 ACDA-19 IO-14 NEA-10 AF-10 OMB-01 DLOS-06

COA-02 EB-11 /165 R

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DOD/ISA/EAPR - CAPT. SHAID

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P R 100105Z NOV 73
FM SECSTATE WASHDC
TO AMEMBASSY JAKARTA PRIORITY
INFO AMEMBASSY SINGAPORE
AMEMBASSY KUALA LUMPUR
CINCPAC HONOLULU HI

C O N F I D E N T I A L STATE 222096

E.O. 11652: GDS
TAGS: PFOR,PBOR, MOPS, MY, SN, ID
SUBJ: LOS: MALACCA STRAITS

REF : A) JAKARTA 13047; B) JAKARTA 12826; C) JAKARTA 12782;
D) STATE 214750; E) STATE 217834; F) STATE 65507 (APR 72)

1. APPRECIATE CLARIFICATION REF A OF EMBASSY COURTESY
ADVISORY PRACTICE AS REGARDS MALACCA STRAITS.

2. ALTHOUGH, AS YOU HAVE INDICATED REF A, YOU HAVE ON
SEVERAL OCCASIONS LET GOI KNOW OF TRANSITS MALACCA STRAIT
IN CONNECTION OTHER MOVEMENTS THROUGH INDONESIAN CLAIMED
WATERS, EMBASSY ACTION TO DATE DOES NOT RPT NOT APPEAR SET
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ANY PRECEDENT ON TRANSITS MALACCA STRAIT. THIS IS IMPOR-

TANT IN CONTEXT OUR LOS POSITION VIS-A-VIS NUMBER OTHER COUNTRIES. U.S. DOES NOT RECOGNIZE TERRITORIAL SEA CLAIMS BEYOND THREE MILES. FURTHERMORE, UNDER INTERNATIONAL LAW, NO NOTIFICATION OF INNOCENT PASSAGE IS REQUIRED EITHER BY THE CONVENTION ON THE TERRITORIAL SEA AND CONTIGUOUS ZONE OR BY CUSTOMARY INTERNATIONAL LAW IN TERRITORIAL SEA IN INTERNATIONAL STRAITS. THUS TO ESTABLISH ANY CONTRARY PRECEDENT WOULD PROVIDE A MEANS BY WHICH OTHER NATIONS COULD INSIST THAT U.S. ACCEDE TO THEIR DEMAND FOR ADVANCE NOTIFICATION FOR WARSHIPS PASSING THROUGH THEIR TERRITORIAL WATERS IN INTERNATIONAL STRAITS. MOREOVER, U.S. PROPOSAL OF FREE TRANSIT THROUGH AND OVER INTERNATIONAL STRAITS INTENTIONALLY EXCLUDES ANY FORM OF NOTIFICATION. CONSEQUENTLY, WE ARE EXTREMELY ANXIOUS AVOID ANY IMPRESSION THAT U.S. WILLING TO COMPLY WITH REQUIREMENT FOR NOTIFICATION OF TRANSIT THROUGH INTERNATIONAL STRAITS BY ITS SHIPS EITHER AT PRESENT OR IN FUTURE AGREEMENT ON THIS SUBJECT.

3. FOR ABOVE REASONS WE CANNOT RPT NOT AGREE THAT YOU SHOULD EXPRESS REGRETS TO MALIK FOR ANY ALLEGED FAILURE NOTIFY GOI OF TRANSIT MALACCA STRAIT. FOR SAME REASONS YOU SHOULD AVOID ANY FUTURE EMBASSY ACTIONS WHICH COULD BE CONTRUED AS NOTIFICATION OF TRANSITS OF MALACCA STRAIT. IN CASE OF FUTURE COURTESY ADVISORIES TO GOI OF SHIP MOVEMENTS THROUGH INDONESIAN CLAIMED WATERS OTHER THAN MALACCA STRAIT, EMBASSY SHOULD AVOID ANY SPECIFIC REFERENCE TO MALACCA EVEN IF SHIP MOVEMENT INCLUDES MALACCA AS WELL AS, FOR EXAMPLE, SUNDA OR LOMBOK.

4. WE STRONGLY AGREE WITH YOU THAT WE DO NOT WANT CONFRONTATION WITH GOI OVER THIS ISSUE, AN OUTCOME WHICH COULD ONLY BE HARMFUL TO BOTH GOI AND USG INTERESTS. THEREFORE RECOMMEND YOU TAKE EARLY OPPORTUNITY TO MAKE SOME OR ALL OF FOLLOWING POINTS TO MALIK OR OTHER APPROPRIATE GOI LEADERS IF IN YOUR JUDGMENT SUCH ACTION WOULD SERVE TO DAMPEN THIS ISSUE:

(A) PRESS REPORT TO EFFECT THAT TRANSIT OF HANCOCK TASK FORCE WAS EFFORT TO DEMONSTRATE OUR RIGHT TO FREE TRANSIT IN TIME OF TENSION IS FALSE. MOVEMENT OF TASK
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FORCE WAS IN NO RPT NO WAY AIMED AT RIPARIAN STATES BUT WAS RATHER PURELY PRECAUTIONARY REACTION TO SOVIET MOVES. WE BELIEVE U.S. BALANCING PRESENCE IN INDIAN OCEAN CONTRIBUTES TO GOI SECURITY AS WELL AS THAT OF OTHER STATES IN AREA. WE ARE SURPRISED THAT IT SHOULD CAUSE ANY ADVERSE INDONESIAN REACTION.

(B) OUR POSITION ON MALACCA STRAITS IS WELL KNOWN

TO THE GOI AND HAS NOT CHANGED. IT IS STILL AS OUTLINED
TO THE GOI IN OUR PAPER GIVEN TO THEM LAST YEAR. (YOU
MAY WISH TO GIVE MALIK ANOTHER COPY OF THAT PAPER. TEXT
IS CONTAINED REF F.)

(C) WE REMAIN HOPEFUL THAT ALL LOS ISSUES, INCLUDING
THAT OVER STRAITS, CAN BE AMICABLY SETTLED IN LOS CONFER-
ENCE TO SATISFACTION OF BOTH GOI AND USG. IN MEANTIME
WE HOPE GOI WILL AGREE THAT PUBLIC CONTROVERSY SERVES NO
PURPOSE AND MAY IN FACT MAKE RESOLUTION OF OUR DIFFER-
ENCES IN LOS CONFERENCE MORE DIFFICULT. RUSH

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